

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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JOHN PETRONE,

Plaintiff,

-against-

HAMPTON BAYS UNION FREE SCHOOL
DISTRICT, et al.,

Defendants.
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LINDSAY, Magistrate Judge:

Defendants move by letter application dated December 19, 2005 for an order compelling production of the items contained in the plaintiff's December 12, 2005 privilege log. The court need not wait for opposition because the application is denied without prejudice with leave to renew.

Defendants called for the production of all documents in the care, custody and control of Dr. Lubit related to the work that he did in this case, namely the preparation of his expert report. Because the documents identified on the privilege log are all dated after the preparation of Dr. Lubit's report with the exception of the document described as "Engagement of Services" dated March 30, 2005, such documents do not fall within the scope of Weil v. Long Island Savings Bank, 206 F.R.D. 36 (E.D.N.Y. 2001) cited by defendants. While the "Engagement of Services" document was drafted prior to the preparation of the expert report, given the plaintiffs' description, it is unlikely that Dr. Lubit considered it in the preparation of his expert report.

Nevertheless, the parties shall meet and confer in good faith to determine whether the documents that are the subject of this application were considered by Dr. Lubit in the preparation of his expert report. After such conference, should defendants continue to seek these documents, it may renew its motion to compel.

Dated: Central Islip, New York
December 22, 2005

SO ORDERED:

/s/

ARLENE R. LINDSAY
United States Magistrate Judge